IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR No.3075 of 2007

DATE OF DECISION: 26.7.2007

Avtar Singh and another ...Petitioners

VERSUS

Smt.Saheb Kaur and others ...Respondents

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HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.S.P.Singh, Advocate for the petitioners

Permod Kohli (Oral)

CM No.13541-CII of 2007

This is an application for placing on record certified copy of the will (Exhibit P-1) alongwith its true translated extract. The said documents are taken on record. CM disposed of.

CR No.3075 of 2007

This Civil Revision has been preferred against the judgment dated 23.2.2007 passed by the Additional District Judge, Ambala in appeal filed by the present petitioners under Section 388 (3) read with Section 384 of the Indian Succession Act, 1925 whereby the judgment dated 15.12.2006 passed

by Civil Judge (Sr.Division), Ambala granting succession certificate in favour of respondent no.1 has been affirmed.

Respondent no.1 claiming to be the daughter of one Amar Singh (deceased), filed a petition under Section 372 of the Indian Succession Act, 1925 for grant of Succession Certificate with respect to movable properties of deceased Amar Singh, on the basis of a will said to be executed by Amar Singh deceased. Claim of respondent no.1 to be the daughter of Amar Singh, has not been disputed by any of the parties. Present petitioners who are sons of one Baljit Singh claiming to be the grand sons of deceased Amar Singh, made an application for impleadment and were impleaded as party respondents in the application for grant of succession certificate. They claimed the possession of another will executed by Bachni Devi, wife of deceased Amar Singh. The courts below on the basis of evidence led by the parties, held that respondent no.1 is the daughter of Amar Singh who had been staying with her. The validity of the will executed in favour of respondent no.1 in the year 1983 was duly established. The Courts below further held that the will allegedly executed by Bachni Devi in favour of the present petitioners has no sanctity whatsoever and no right is acquired by the petitioners by virtue of the said will in their favour because Baljit Singh who claimed to be the adopted son of deceased Amar Singh, has not been able to establish adoption and relationship with deceased Amar Singh. On the basis of the aforesaid observations and findings, the trial court granted

succession certificate in favour of respondent no.1. Appeal preferred by the petitioners herein was also dismissed vide judgment dated 23.2.2007.

Learned counsel appearing for the petitioners has vehemently contended that the judgments of the courts below are erroneous inasmuch as Baljit Singh is shown to be dead, whereas Baljit Singh is alive. The second contention is that the will in favour of respondent no.1 relates to only immovable property and hence the Succession Court has no jurisdiction to grant certificate with respect to movable properties. From the judgment of the trial court, it is evident that respondent no.1 is the only successor of deceased Amar Singh. The Courts below have also observed that even if the will is ignored, she being daughter and only successor is entitled to receive and to collect the movable properties of deceased Amar Singh indicated in the application for grant of succession certificate. This finding was based on the fact that Bachni Devi wife of Amar Singh was dead and Baljit Singh's adoption and relationship with deceased Amart Singh has not been established. Therefore, the contention of the learned counsel for the petitioners that the will does not relate to movable properties, will have no bearing on the judgments impugned. The other contention that Baljit Singh is alive and the finding of the courts below are erroneous, also will have no bearing on the judgments impugned. Even if it is assumed that Baljit Singh is alive, during his life time, the petitioners who are sons of Baljit Singh, have no locus to object to the grant of

succession certificate and admittedly, Baljit Singh never objected to the grant of succession certificate. I find no merit in this Revision Petition which is accordingly dismissed.

(PERMOD KOHLI)
JUDGE

26.7.2007
MFK

NOTE:Whether to be referred to the Reporter or not:NO